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Sheryl Sue Holloway Blakely, Sokoloff, Taylor, & Zafman LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025				
EXAMINER				
SALCE, JASON P				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/524,770

Applicant(s)

MYERS ET AL.

Examiner

Jason P. Salce

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 18-29, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 18-29, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/30/2009 have been fully considered but they are not persuasive.

Applicant has amended independent claim 16 to state, "**and said on-site media service data further includes metadata that allows a user to locate a specific segment of the content data**". The Examiner notes that Goldschmidt Iki not only teaches program indicators (see **Column 5, Line 16 through Column 6, Line 29**), but also teaches another type of metadata in the form of commercial indicators, which allow the system of Goldschmidt Iki to stop recording, as opposed to start recording (**instructed by the program indicators**). Therefore, the commercial indicators allow the system of Goldschmidt Iki to locate when a commercial will be aired, wherein the commercial is a segment of the content data (**video program being received**). Further note that the system of Goldschmidt Iki further allows the user to select a program to record and further indicate that he/she wishes to record the program **without commercials** (see **Column 8, Lines 50-60**), therefore allowing the user to locate specific segments (**commercials**) based on the on-site media data instructing the system to avoid recording the commercials, as requested by the user.

Therefore, the claims still read on the prior art of record used to previously rejection the claims (see **the updated rejection below**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 18-20, 23, 25-26, 28-29 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Goldschmidt Iki et al. (U.S. Patent No. 6,226,444) in further view of Barton et al. (U.S. Patent No. 6,233,389) in further view of Grossman et al. (U.S. Patent No. 5,907,321).

Referring to claim 16, Hendricks discloses formatting a media signal with content data and with on-site media service data (**see Column 7, Line 50 through Column 9, Line 19 for the headend receiving both content data (television programs) and on-site media service data (program control information signals)**).

Hendricks also discloses broadcasting said media signal to an on-site media system having a dedicated tuning device (**see Figure 1 and Column 9, Line 20 through Column 10, Line 62 for receiving the programming signals at a client device/on-site media system**).

Hendricks also discloses that said on-site media service data allows an off-site broadcaster to remotely control a display of an advertisement on said on-site media system (**see Column 6, Line 3 through Column 7, Line 48 for the operations center creating the on-site media service data, which allows the operations center to**

remotely control a display of an advertisement to the user's display device (further note Column 19, Line 28 through Column 20, Line 67)).

Although Hendricks discloses receiving on-site media service data (**see above**), Hendricks fails to disclose that the on-site media service data includes a command that instructs an on-site media system to record the content data without intervention of a user.

Goldschmidt Iki discloses that the on-site media service data includes a command from an off-site broadcaster that instructs an on-site media system to record the content data without intervention of a user (**see Column 5, Lines 16-67 for receiving commands in a transmitted broadcast program that instructs a on-site media system to record a television program and stop recording when a commercial is broadcasted and then continuing to record the television program after the commercial has been broadcasted**).

Goldschmidt Iki also discloses that said on-site media service data further includes metadata that allows the user to locate a specific segment of the content data (**the Examiner notes that Goldschmidt Iki not only teaches program indicators (see Column 5, Line 16 through Column 6, Line 29), but also teaches another type of metadata in the form of commercial indicators (see Column 5, Line 16 through Column 6, Line 29), which allow the system of Goldschmidt Iki to stop recording, as opposed to start recording (instructed by the program indicators). Therefore, the commercial indicators allow the system of Goldschmidt Iki to locate (per user request) when a commercial will be aired, wherein the commercial is a segment of**

the content data (video program being received). Further note that the system of Goldschmidt Iki further allows the user to select a program to record and further indicate that he/she wishes to record the program without commercials (see Column 8, Lines 50-60), therefore allowing the user to locate specific segments (commercials) based on the on-site media data instructing the system to avoid recording the commercials, as requested by the user).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television system and EPG, as taught by Hendricks, to include the data that instructs an on-site media system to record a television program, as taught by Goldschmidt Iki, for the purpose of providing a system that records only the television program the viewer desires without the unwanted commercials (see Column 1, Lines 7-9 of Goldschmidt Iki).

Hendricks and Goldschmidt Iki fail to teach that said on-site media system has a dedicated portion of a hard disk for said media signal.

Barton discloses an on-site media system that further includes a hard drive to store media signals (see Column 3, Line 30 through Column 4, Line 13), further note that the media signals/movies are stored on various portions of the hard drive, therefore the media signals are stored on a dedicated portion of the hard drive (the portion used to store a particular movie or movies). *The examiner notes that the recitation “dedicated” is broad and the claims do not recite how said portion of the hard drive is “dedicated”, therefore the examiner has interpreted a dedicated portion to simply be the portion which stores each particular movie. Even further, the*

examiner notes that a hard drive inherently contains a dedicated portion because every hard drive contains a table of addresses in a hidden portion of the hard drive (e.g. a FAT table), therefore the portion of the hard drive used to store data and not the hidden portion/address table can be considered the “dedicated” portion.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the on-site media system, as taught by Hendricks and Goldschmidt Iki, using the hard disk, as taught by Barton for the purpose of providing a user the ability to simultaneously record and playback TV broadcast programs (**see Column 1, Lines 54-55 of Barton**).

Hendricks, Goldschmidt Iki and Barton fail to disclose that the advertisement is enabled in a transition between two programs during a channel changing event.

Grossman discloses that an advertisement is enabled in a transition between two programs during a channel changing event (**see Figure 2 and Column 2, Lines 30-40**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the recording system of Hendricks, Goldschmidt Iki and Barton, using the advertisement display process, as taught by Grossman, for the purpose of providing the user additional important information, such as public service messages and warnings against smoking, while waiting for a channel change to occur (**see Column 3, Lines 31-45 of Grossman**).

Claim 18 corresponds to claim 16, where Hendricks further discloses that said on-site media service data has interactive options that are responsible to a viewer input on said on-site media system (**see Figures 11a-11d**).

Claim 19 corresponds to claim 16, where Hendricks further discloses that said on-site media system has a resident-software platform for interfacing information between a content provider, a presentation engine, and a viewer (**see Column 10, Lines 13-46**).

Claim 20 corresponds to claim 16, where Hendricks further discloses that said medial signal is formatted with metadata on a fine-grain basis for intervals shorter than a broadcast program time span (**see Column 20, Lines 16-18 for the metadata identifying advertisements for video programs**).

Claim 23 corresponds to claim 16, where Hendricks further discloses that said on-site media services data includes management information for said on-site media system (**see Table A at Column 20, Lines 32-46**).

Claim 25 corresponds to claim 16, where Hendricks further discloses that said on-site service data includes presentation information (**see the rejection of claim 23**).

Referring to claim 26, see the rejection claim 21 and further note Figure 6.

Claim 28 corresponds to claim 16, where Hendricks further discloses that said on-site media service data provides software updates (**see Column 10, Lines 47-55**).

Claim 29 corresponds to claim 16, where Hendricks further discloses that said on-site service data includes function information that enhances functionality of said on-site media system (**see the rejection of claim 28**).

Referring to claim 41, Hendricks discloses that the cable headend is an over-the-air broadcaster (**see Figure 1 for receiving television signals over a satellite**).

Referring to claim 42, Barton discloses that the dedicated portion of the hard disk is dedicated for the off-site broadcaster (**see Column 3, Line 30 through Column 4, Line 2 for recording television signals transmitted over a television broadcast network onto a hard drive, therefore the dedicated portion of the hard drive is dedicated for the off-site broadcast because the television shows transmitted from the broadcaster are stored on the hard drive**).

Claims 21-22, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Goldschmidt Iki et al. (U.S. Patent No. 6,226,444) in further view of Barton et al. (U.S. Patent No.

6,233,389) in further view of Grossman et al. (U.S. Patent No. 5,907,321) in further view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 21, Hendricks, Goldschmidt Iki, Barton and Grossman disclose all of the limitations in claim 16, but fail to teach that said on-site media service data enables said on-site media system to record a portion of said media signal on said dedicated portion of said hard disk according to subscription information.

Alexander further teaches that a user may subscribe to recording multiple episodes in a television series (**see Column 11, Lines 8-16**).

At the time the invention was made, it would have been obvious to modify the on-site media system/data, as taught by Hendricks, Goldschmidt Iki, Barton and Grossman, using the record regularly functionality in conjunction with the EPG data presented to the user, as taught by Alexander, for the purpose of providing improved viewer control of video recording of future-scheduled programming (**see Column 2, Lines 6-7 of Alexander**).

Referring to claim 22, see the rejection of claim 21.

Referring to claim 24, see the rejection of claim 21.

Referring to claim 27, Hendricks, Goldschmidt Iki, Barton and Grossman disclose all of the limitations in claim 16, but fail to teach that said on-site media service data includes information for retrieving data from an Internet site.

Alexander teaches providing information for retrieving data from an Internet site (see Column 8, Lines 36-64).

At the time the invention was made, it would have been obvious to modify the on-site media system/data, as taught by Hendricks, Goldschmidt Iki, Barton and Grossman, using the Internet mode, as taught by Alexander, for the purpose of providing improved viewer interactive capabilities with the EPG (see Column 2, Line 5 of Alexander).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

Jason P Salce
Primary Examiner
Art Unit 2421

March 2, 2010